

N.D.A.G. Letter to Hengar (Jan. 27, 1986)

January 27, 1986

Mr. Dale L. Henegar
Commissioner
North Dakota Game & Fish Department
100 North Bismarck Expressway
Bismarck, ND 58501-5095

Dear Commissioner Henegar:

Thank you for your letter of January 10, 1986, concerning a proposal to issue a special hunting license to landowners in place of the free license to which they are now entitled by statute. As I understand your proposal, individuals owning land within an area open for the hunting of deer may be given a license to hunt not only on the land owned or leased, but in the entire unit wherein the land is located. In accepting this new license, the landowner or lessee would be compelled to give up his or her free license as provided for by statute. Finally, you state that this system is similar to that in place for your elk hunting season pursuant to 1985 legislation.

It appears to me that you will also have to seek appropriate legislation to accomplish that which is proposed in your letter. As landowners and lessees of land found within an area open for the hunting of deer are entitled by statute to a free license, that entitlement may not be removed by action other than legislative action. The authority given to the governor to issue a proclamation as to the issuance of such licenses does not include the authority to ignore that which statutes have bestowed upon landowners and lessees of land in certain situations.

Therefore, the proposal as outlined in your letter may not be accomplished without specific legislation on this subject.

However, a landowner or lessee otherwise entitled to a free license, pursuant to N.D.C.C. § 20.1-03-11(3), is certainly able to forego such license in return for the license described in your letter. Naturally, the discretion as to the selection of this option lies solely with the landowner or lessee under current statutes. The governor's proclamation may provide the specific details as to the issuance of such special licenses.

You also asked a question as to the notarization of an applicant for a deer license without charge pursuant to N.D.C.C. § 20.1-03-11(3). This notarization requirement concerns the affidavit which is required by the statute. The notarization is needed so as to comply with this statutory requirement of an affidavit.

Sincerely,

Nicholas J. Spaeth

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